



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: May 14, 2004

COUNCIL DISTRICT: 3
SNI AREA: Five Wounds/
Brookwood Terrace

SUBJECT: C04-039. DIRECTOR INITIATED CONVENTIONAL REZONING FROM LI LIGHT INDUSTRIAL AND CP PEDESTRIAN COMMERCIAL ZONING DISTRICTS TO R-2 TWO-FAMILY RESIDENCE DISTRICT ON A 31.34 GROSS ACRE SITE, LOCATED IN THE AREA GENERALLY BOUNDED BY EAST SANTA CLARA STREET TO THE NORTH, 30TH AVENUE TO THE EAST, SAN ANTONIO STREET AND WILLIAM STREET TO THE SOUTH AND SOUTH 22ND STREET TO THE WEST.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed rezoning.

BACKGROUND

On May 12, 2004, the Planning Commission held a public hearing to consider a City-initiated Conventional Rezoning from CP Commercial Pedestrian and LI Light Industrial to R-2 Two-Family Residence District to allow residential uses in support of the Council-adopted Five Wounds Brookwood Terrace Strong Neighborhood Initiative Neighborhood Improvement Plan.

The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Six industrial property and business owners spoke against the proposed rezoning. The speakers expressed concern that the proposed rezoning would require them to shut down the existing industrial businesses, and would prevent them from making future property and/or business improvements.

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Staff responded to explain to the Commission and the speakers the City's regulations on legal nonconforming uses. The City Attorney further clarified the legal status of nonconforming uses, stating that existing industrial uses established legally would be allowed to continue, even if not conforming to the proposed R-2 Residential zoning district. Planning staff added that improvements, limited expansions and a change to another similar industrial use could be made to legal nonconforming properties through a Planning permit process.

Commissioner Levy expressed concern about the number of property and business owners that came to speak against the proposed rezoning. He asked staff to clarify the outreach that was provided to the community, particularly to the industrial property and business owners. Planning staff responded that in addition to the presentations that occurred at the Five Wounds/Brookwood Terrace NAC meetings, a meeting was held in the community for owners of property within the area proposed to be rezoned. All property owners were sent individual letters, maps, and "question and answer" sheets informing them of the proposed rezoning and inviting them to the meeting or to contact planning staff with questions or concerns. Planning staff noted that they only received a few phone calls from property owners, two of which said they were in support of the proposed rezoning, one stating that they were not concerned with the rezoning, and one expressing concerns. In addition, the property owners' meeting was only attended by a few individuals, none of which expressed opposition to or concerns with the proposed rezoning.

The Planning Commission then closed the public hearing.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. In addition, the Planning Division's website contains information regarding the zoning process, the legal nonconforming use process, the Zoning Ordinance, and the *San José 2020 General Plan*. In addition, information on this proposed rezoning application, including staff reports and public hearing schedule, is also available. Staff has also made itself available to discuss the subject project on an individual meeting-basis with property owners and members of the public.

A community meeting involving property owners was held for this project on March 25, 2004. The few attendants at the meeting were owner occupants who had expressed support for the rezoning proposal. A few telephone communications occurred with residential property owners expressing support for the proposed rezoning. One call was from a machine-shop owner who was not concerned about the proposed rezoning after it was explained that the legal nonconforming use regulations would apply to uses that were legal and would allow a use to remain as is, by right, should the rezoning occur. Another call was from an industrial business use who had a similar concern regarding the continuation of his business.

In addition, staff presented the proposed rezoning at the regularly scheduled monthly Five Wounds-Brookwood Terrace SNI Neighborhood Advisory Committee (NAC) during the month of February 2004. The SNI NAC is in support of the proposed rezoning.

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COORDINATION

As standard procedure in the review process, this project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney. The project was also coordinated with the District 3 Council Office and the Redevelopment Agency.

STEPHEN M. HAASE
Secretary, Planning Commission